



COMMUNITY & NEIGHBORHOOD SERVICES COMMITTEE

April 30, 2009

The Community & Neighborhood Services Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on April 30, 2009 at 9:35 a.m.

COMMITTEE PRESENT

Dina Higgins, Chairwoman
Dennis Kavanaugh
Dave Richins

COMMITTEE ABSENT

None

STAFF PRESENT

Natalie Lewis
Alfred Smith

1. Items from citizens present.

There were no items from citizens present.

2. Hear an overview presentation of MACFest 2008/09, discuss and provide any additional suggestions prior to the upcoming MACFest 2009/10 season.

Executive Director of the Mesa Art Center Johannes Zietsman addressed the Committee regarding the Mesa Arts and Cultural Festival (MACFest), which began in October of 2008. He displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to outline the goals, which included revitalizing the downtown area, supporting the downtown merchants, providing opportunities for artists, and creating a sense of community.

Mr. Zietsman introduced Vern Mathern, Chairman of the MACFest Volunteer Committee, and stated that the Committee is responsible for the success of the first season. He outlined the "guiding principles" (see Attachment 1) that provide a framework for the volunteers as they organize the events. Mr. Zietsman listed the members of the Committee and noted that several members were present in the audience. He advised that the "Ask Me" volunteers, who were organized to provide arts-related information and assistance to MACFest attendees, were being asked a broad range of questions, and therefore the volunteers are now prepared to provide information regarding community resources and other activities in the City of Mesa.

Mr. Zietsman provided an overview of the first season and noted that MACFest was held each Saturday except for two, one of which was planned and the other was rained out. He reported that a total of 181 artists participated during the season with between 11 and 61 artists participating each week. He said that the average attendance was between 700 and 2,000 each Saturday and that total attendance for the first season was approximately 30,000. He added that future plans will be discussed at a May 19th meeting with the artists.

Mr. Mathern complimented Mr. Zietsman on his ability to organize and guide the group of volunteers. He reported that a survey of artists indicated that a strong demand exists for a farmer's market, which will be added next year and operate separately from MACFest on Pepper Place between Center and Macdonald Streets. Mr. Mathern said that during the past year, MACFest operated on Main Street primarily between Center and Macdonald, but that next year the booths will be shifted further to the west to provide a benefit to the merchants in that area. He added that merchants would have an opportunity to occupy the space in front of their business and if a merchant declines that opportunity, the space is then assigned to an artist. Mr. Mathern said that creating a density of booths draws customers to an area. He advised that additional entertainers would be incorporated into the MACFest venue. Mr. Mathern noted that a goal of MACFest is to encourage the participation of young artists in the event.

In response to a question from Chairwoman Higgins, Mr. Zietsman advised that the Mesa Art League recently had a booth at MACFest for young artists and that other organizations are likely to promote youth participation. He noted that the City Attorney has advised that representatives of the City are not required to ensure that MACFest exhibitors have a valid tax identification number, although MACFest provides information on obtaining a tax identification number.

Chairwoman Higgins complimented Mr. Zietsman and the volunteers for organizing and promoting a successful event.

Committeemember Kavanaugh stated the opinion that adding elements such as additional entertainment and a farmer's market would enhance an already successful event.

Chairwoman Higgins thanked Mr. Zietsman and Mr. Mathern for the presentation.

3. Hear a presentation, discuss and make recommendations on a proposed ordinance on individual residential rental inspections.

Deputy Building Safety Director Tammy Albright displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) and advised that in November of 2008, a proposition on the ballot that would allow the City to implement an individual residential rental inspection program was approved by 79 percent of the voters. She outlined the provisions of the State Statutes regarding individual property inspections (see Attachment 2) and the conditions that qualify as those that "materially affect health and safety" as listed on Exhibit A (see Attachment 3).

Ms. Albright reported that the proposed ordinance (see Attachment 4) was presented to the Housing Advisory Board in February of this year. She said that a discussion of the key issues included the actions required of the City when an occupant is told to vacate a property due to unsafe conditions. Ms. Albright advised that the Board did not want the City to be responsible for providing temporary housing in these situations except in the case of an extreme emergency. She said that the City could provide owners and tenants with a packet of information regarding housing options and agencies that provide assistance.

In response to a question from Committeemember Richins regarding the property owner's responsibility to provide housing, Assistant City Attorney Christine Stutz said there is no provision in the State Statutes that permits the City to assess the cost of temporary housing to the property owner. She suggested that a provision could be included in the proposed ordinance

that would allow the City to recoup the costs of providing temporary housing from the property owner.

Deputy City Attorney Alfred Smith stated that because the proposed ordinance mirrors the State Statute, a City ordinance would have to include the imposition of penalties on the property owner.

Discussion ensued relative to the fact that the property owner should be responsible for providing temporary housing; and that housing provided by social service agencies is a disincentive to the property owner to maintain the property.

Mr. Smith noted that in certain cases, the tenant may be responsible for the poor condition of the rental property.

Ms. Albright advised that a provision of the existing Building Code requires that a resident vacate a property when a life-threatening hazard is present. She noted that the City has utilized this provision in two cases, and she added that in one case, the City became involved in a lawsuit regarding who was responsible for the condition of the property. Ms. Albright said that the Building Code does not include a mechanism that requires the City to secure temporary housing for the tenant. She explained that the form signed by the tenant or property owner that authorizes City representatives to inspect the interior of a property includes a clause stating that the City is not responsible for providing temporary housing.

Further discussion ensued relative to the fact that a lack of temporary housing is a disincentive for a tenant to report problems with a property; that Neighborhood Services has allotted \$1,500 in their budget for emergency temporary housing for one or two nights; and that staff would consider every available option prior to allocating City funds for temporary housing.

Ms. Albright outlined the following options available to the Committee regarding the inspection program:

- Adopt a City ordinance that duplicates the State Statute and enables the City representative to cite the City Code for a violation. The State Statutes must be monitored for changes.
- Adopt a City ordinance authorizing the City to act according to the State Statutes, which requires the City representative to cite both the City Code and the State Statutes for a violation. When the State Statutes change, the City Code automatically changes.

Committeemember Richins asked if some type of mechanism was available whereby the owner could certify that the rental unit was habitable at the time the tenant began occupancy of the premises.

Ms. Stutz stated that the Landlord Tenant Law prohibits that type of provision in a tenant's lease.

Ms. Albright advised that staff recommends that the individual residential rental property inspection program be implemented by an ordinance that duplicates the State Statutes and operates primarily on a request basis or when evidence indicates the presence of a serious life-

safety hazard. She added that unless a life-threatening situation existed, tenants would not be asked to vacate a property.

Responding to questions from Committeemember Richins regarding the protection of tenants from retaliation by property owners, Ms. Stutz advised that the position of the City Attorney's Office with regard to the Public Records Law is that information regarding complaining parties is protected. She added that in the case of a single rental unit, either the tenant or the owner must provide written approval prior to an inspection and therefore the identity of the complaining party would be apparent.

Mr. Smith noted that a lease is the contract between a tenant and a landlord, which the landlord may choose not to renew. He said that he would review the provisions of the Fair Housing Law regarding the issue of retaliation and provide additional information.

In response to a question from Chairwoman Higgins, Ms. Albright said that once the City's representative enters a property and identifies a violation, a Code violation case exists that the property owner must correct within a specific period of time.

Ms. Albright advised that staff recommends that the inspections be conducted by the City's current Code Compliance Officers and Building Inspectors. She said that Building Inspectors are certified through the International Code Council, and she added that another option is to have Code Compliance Officers obtain the Housing Quality Standards certification.

Ms. Albright stated that public outreach would be conducted by notifying registered neighborhoods, homeowner's associations, and social service agencies. She added that the City's website and other media outlets would also be utilized.

Responding to a request from Committeemember Richins, Ms. Albright said that information would be obtained regarding the rates charged by private home inspectors for their services in order to compare the rates with the City's cost to provide similar services. She explained that State Law prohibits the City from charging the property owner for the initial inspection or the first follow-up, but fees could be imposed if additional inspections are required.

Additional discussion ensued relative to the fact that the proposal should move forward for consideration at a Council Study Session; and that staff will provide the Council with additional information on the issues raised during this meeting.

Committeemember Kavanaugh noted that he would like the proposal to include a provision that enables the City to recoup the cost of emergency housing expenditures, and he would like to consider other options that place the burden of tenant relocation on the property owner.

It was moved by Committeemember Kavanaugh, seconded by Committeemember Richins, to recommend to the Council that staff's recommendation for a proposed ordinance on individual residential rental inspections that is consistent with State Statutes (A.R.S. 9-1302 and 9-1303) and Proposition 400 be approved.

Carried unanimously.

Mr. Smith confirmed that staff would prepare information on the issues raised during this meeting for presentation to the full Council.

4. Adjournment.

Without objection, the Community & Neighborhood Services Committee meeting adjourned at 10:29 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Community and Neighborhood Services Committee meeting of the City of Mesa, Arizona, held on the 30th day of April, 2009. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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Attachments (4)